

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

OVELL THOMAS,

Plaintiff,

v.

Case No. 20-CV-1458

DOLLAR TREE,

Defendant.

**REPORT AND RECOMMENDATION FOR DISMISSAL OF AMENDED
COMPLAINT**

On September 17, 2020, Ovell Thomas filed a *pro se* complaint against Dollar Tree and others (Docket # 1) alleging violations of Title VII of the Civil Rights Act of 1964 (“Title VII”), as amended, 42 U.S.C. § 2000e. Thomas also filed a motion for leave to proceed without prepayment of the filing fee (*in forma pauperis*) (Docket # 2.) On September 30, 2020, I found Thomas indigent and granted his *in forma pauperis* motion. (Docket # 5 at 2.) However, I also found that Thomas’ complaint failed to state a claim on which relief may be granted because he did not allege exhaustion of his administrative remedies. (*Id.*) Thomas was informed that before bringing a Title VII employment discrimination claim to federal court, a plaintiff must exhaust administrative remedies by filing a charge with the Equal Employment Opportunity Commission and receiving authorization to sue. 42 U.S.C. § 2000e-5(b), (f); *Conner v. Ill. Dept’t Nat. Res.*, 413 F.3d 675, 680 (7th Cir. 2005). Thomas was given an opportunity to amend his complaint to show that he properly exhausted his administrative remedies. (Docket # 5 at 3.)

Thomas has now filed an amended complaint, again alleging violations of Title VII. (Docket # 6.) However, Thomas again fails to allege that he has exhausted his administrative remedies. For this reason, I recommend that Thomas' complaint be dismissed without prejudice.¹

NOW, THEREFORE, IT IS RECOMMENDED that this action be **DISMISSED**.

Your attention is directed to General L.R. 72(c), 28 U.S.C. § 636(b)(1)(B) and Federal Rules of Criminal Procedure 59(b), or Federal Rules of Civil Procedure 72(b) if applicable, whereby written objections to any recommendation or order herein, or part thereof, may be filed within fourteen days of the date of service of this recommendation or order. Objections are to be filed in accordance with the Eastern District of Wisconsin's electronic case filing procedures. Courtesy paper copies of any objections shall be sent directly to the chambers of the district judge assigned to the case. Failure to file a timely objection with the district court shall result in a waiver of a party's right to appeal. If no response or reply will be filed, please notify the Court in writing.

Dated at Milwaukee, Wisconsin this 15th day of October, 2020.

BY THE COURT

s/Nancy Joseph

NANCY JOSEPH

United States Magistrate Judge

¹ Because the defendant has not yet appeared and had an opportunity to consent or refuse magistrate judge jurisdiction, I issue a report and recommendation regarding the screening of the plaintiff's complaint. *See Coleman v. Labor and Industry Review Commission*, 860 F.3d 461(7th Cir. 2017).